

REMARKS

By this Amendment, Applicants amend claims 1-5 to more appropriately define the present invention. Claims 1-5 are currently pending.

In the Office Action, the Examiner rejected claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite; and rejected claims 1-5 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,564,253 to Stebbing ("Stebbing").¹

Regarding the rejection under 35 U.S.C. § 112

Applicants respectfully traverse the Examiner's rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite. "A fundamental principle contained in 35 U.S.C. § 112, second paragraph is that applicants are their own lexicographers. They can define in . . . whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art." M.P.E.P. § 2173.01. "Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire." M.P.E.P. § 2173.02. The claim interpretation should be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. M.P.E.P. § 2173.02.

The Examiner alleges that "[t]he claims are generally narrative and indefinite, failing to conform with current U.S. practice." (Office Action at 3.) Applicants respectfully disagree. However, to expedite the prosecution of this application, Applicants have amended claims 1-5 to ensure these claims conform with current U.S.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

practice. Accordingly, Applicants respectfully request withdrawal of the Section 112 rejection of claims 1-5.

Regarding the rejection under 35 U.S.C. § 102(e)

Applicants respectfully traverse the Examiner's rejection of claims 1-5 under 35 U.S.C. § 102(e) as being anticipated by Stebbins. In order to anticipate Applicants' claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent claim 1, as amended, recites a combination including, for example, "means for storing a record in which first identification information stored in and inherent to each of said data processing units is associated with second identification information inherent to each of recording mediums on which data to be processed by the data processing units is recorded." Stebbins fails to disclose at least these features of amended claim 1.

Stebbins discloses a "monitoring process of the Internet authorization flagging system." "The process begins at box 100 where an Internet authorization flag is embedded onto a media. At box 101 the media is distributed to an ISP or authorized broker, which loads the media onto its domain web site, as indicated in box 102. Using software capable of detecting data packets containing music, an ISP searches the Internet for music data packets, as at box 103. At box 104, the software determines whether each packet contains an Internet authorization flag. If a flag exists, Internet use

is authorized, as at box 108. If a flag does not exist in the music data packet, a determination query is made as to whether specific action is taken, as at box 105. If so, specific action is initiated, as at box 107. If not, a report is issued indicating the location of unauthorized Internet access, as at box 106.” Stebbings, column 12, lines 27-42, emphasis added.

However, Stebbings teaching of ISP searching of the Internet for music data packets in the media does not constitute “means for storing a record . . . with second identification information inherent to each of recording mediums on which data to be processed by the data processing units is recorded,” as recited in amended claim 1. Moreover, Stebbings fails to disclose “means for storing a record in which first identification information stored in and inherent to each of said data processing units is associated with second identification information inherent to each of recording mediums on which data to be processed by the data processing units is recorded,” as recited in amended claim 1 (emphasis added).

The Examiner alleges that “Stebbing teaches . . . means for storing a record associating said first identification information issued by said server to each of said data processing devices with said second identification information obtained from each of said data processing devices (Summary; Column 5 lines 9-28 and Column 11 lines 11-30).” (Office Action at 4.) Applicants respectfully disagree.

In the sections cited by the Examiner, Stebbings teaches “providing access to the proprietary data stored on the media responsive to the network authorization flag indicating authorized network access to the proprietary data,” and “searching data, contained on at least one of the Internet, intranet and network, for existence of an

Internet authorization flag when a user accesses a web site.” Stebbings, column 5, lines 20-26. “Consequently, the user would be allowed to place the music on the Internet by the existence of the Internet authorization flag embedded in the musical recording.” Stebbings, column 11, lines 19-22.

However, Stebbings’s teaching of providing access solely based on the Internet authorization flag does not constitute “means for storing a record in which first identification information stored in and inherent to each of said data processing units is associated with second identification information inherent to each of recording mediums on which data to be processed by the data processing units is recorded,” as recited in amended claim 1 (emphasis added). In fact, Stebbings is silent on “means for storing a record in which first identification information stored in and inherent to each of said data processing units is associated with second identification information inherent to each of recording mediums on which data to be processed by the data processing units is recorded,” as recited in amended claim 1 (emphasis added).

Therefore, Stebbings fails to disclose each and every element of amended claim 1. Stebbings thus cannot anticipate amended claim 1 under 35 U.S.C. § 102(e). Accordingly, Applicants respectfully request withdrawal of the Section 102(e) rejection of amended claim 1. Because claim 2 depends from claim 1, Applicants also request withdrawal of the Section 102 rejection of claim 2 for at least the same reasons stated above.

Further, amended independent claim 3, while of different scope, includes similar recitations to those of amended claim 1. Claim 3 is therefore also allowable for at least the same reasons stated above with respect to amended claim 1. Applicants

respectfully request withdrawal of the Section 102(e) rejection of amended claim 3 and its dependent claims 4 and 5.

Conclusion

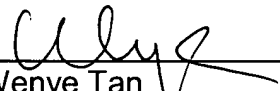
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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